

LARKSPUR PLANNING COMMISSION MEETING
MINUTES OF MAY 9, 2006

The Larkspur Planning Commission was convened at 7:31 p.m. in the Council Chambers by Chair Stahl.

Commissioners Present: Chair Jeff Stahl, Monte Deignan, Helen Heitkamp,
Chris McCluney, Richard Young

Staff Present: Nancy Kaufman, Planning Director
Deric Licko, Assistant Planner
Kristen Teiche, City Planner

OPEN TIME FOR PUBLIC EXPRESSION

There were no comments.

PLANNING DIRECTOR'S REPORT

- She noted there was no amplification system in the Council Chambers tonight, but that the recording system was still working. She asked the public to speak up if they could not hear the Commission or staff.
- The City Council will hold a CLASP Public Hearing tomorrow night in the Hall Middle School Gymnasium at 7:30 p.m.
- She asked the Commission to think about whether or not they would like to hold a joint meeting with the Council regarding Floor Area Ratio Exceptions.
- The Commission discussed their vacation schedules.

APPROVAL OF CONSENT CALENDAR ITEMS

PUBLIC HEARING ITEM

- 1. DR 06-15: 480 Riviera Circle (APN 022-222-28); Don and Irene Wilson, applicants/property owners. Request for Design Review approval to allow for a 1,290 sq. ft. second floor addition to a single-family residence.
Staff Recommendation: Conditional Approval**

Chair Stahl asked the applicants if they agreed with the findings and conditions contained in the staff report. The applicants stated "yes".

On the Consent Calendar, M/s, McCluney/Heitkamp motioned and the Commission voted 5-0 to approve DR 06-15, 480 Riviera Circle, based on the findings and conditions set forth in the staff report.

Chair Stahl stated there was a 10-day appeal period.

PUBLIC HEARING ITEMS

- 2. DR/FAR 06-10: 337 Bretano Way (APN 70-232-14). Sandra Huyser, applicant/property owner. Request for the following permit approvals to allow for the expansion of a single family residence including a second story addition: (1) Design Review; (2) Floor Area Ratio (FAR) Exception to allow a 0.41 FAR (3,119 sq. ft.) where a 0.40 FAR (3,038 sq. ft.) is permitted by code. This item was continued from the Planning Commission's April 18, 2006 meeting; since that meeting the square footage of the proposed addition has been reduced by 11 sq. ft.**

Assistant Planner Licko presented the staff report.

Chair Stahl opened the Public Hearing.

Ms. Shelly Dorr, project designer, made the following comments:

- They tried to mitigate the view issues for the neighbors. The most feasible option was the addition of the second story since they could not add the square footage to the lower level footprint.
- With their original design, they tried to give character to the street and, at that time, it did not appear that they were impacting any views. They were not aware of the view blockage until the first hearing.
- The revised design pushes the second story back and towards the east. They tried to accommodate both neighbors and keep the massing minimal. If they move the addition to the west it would impact the neighbor to the north more.
- There are no windows on the east-facing wall.
- The French doors would look into the neighbor's garage.

Dr. Joe Lazor, Bretano Way, made the following comments:

- He thanked the Commissioners for coming out to his property to look at the impact.
- He was upset about the previous plan and is even more upset now.
- He is very concerned about the revised plan and his loss of privacy.
- The French doors would look into his backyard area where his kids play.
- He is concerned about the windows facing his property and the fact that the chimney would be raised. The existing second chimney is not an issue since the house is just one story.
- The applicants have never contacted him.
- He asked if they had ever considered the option of adding on to the ground floor or over the garage.
- The proposal would be overly obtrusive and would result in a tremendous loss of privacy for him.

- His house is designed for his use, since he is in a wheelchair and he does not have a lot of options for moving. He is unable to pull blinds up and down.
- The lots around his property were developed with smaller homes so they would not look onto his property, which had originally been planned as a park site.
- His privacy and property values are being compromised.
- He was concerned about more second story additions in the neighborhood and further loss of privacy.
- He responded to Chair Stahl's request for clarification regarding the location of his home in relation to the applicant's.

Chair Stahl closed the Public Hearing.

Commissioner Young provided the following comments:

- The FAR Exception is minor at only 70 square feet.
- He had the same impression as he had had with the previous proposal. It is a reasonable project.
- He could support the original or revised design. He felt the revised design was preferable.

Commission Deignan provided the following comments:

- He agreed with the staff report.
- The applicants have tried to provide balance and compromise.
- He visited the site and there is a fair amount of distance between the applicant's home and the neighbor's to the north.
- He recognized the special needs of the neighbor to the north, but felt that the addition would not be intruding into the neighbor's private space.
- The window on the east-facing wall of the home to the east is small and not a primary living space.
- The issues that need to be addressed in the Design Review findings do not rise to a level of significance.
- He could support either the revised or previous application.

Commissioner McCluney provided the following comments:

- He had visited Dr. Lazor's property and he could not see the situation in his favor. He noted the location of an existing fig tree that appeared to be blocking his view of the addition.
- He acknowledged the neighbor's cumulative concerns and frustrations with the development that has occurred around him in the past.
- The distance between the subject property and Dr. Lazor's home was significant.
- There are trees to help provide some visual barrier.
- He agreed with the other Commissioners.
- The east-facing window was small.
- He would be in favor of the design that has the least amount of impact on Dr. Lazor.
- He would prefer the first plan.

- He could make the Design Review and FAR Exception findings.

Commissioner Heitkamp provided the following comments:

- The changes to the design have broken up the mass significantly.
- The French doors and balcony mitigate the mass at the rear elevation.
- The addition is stepped back from the lower floor by 20+ feet.
- The bedroom window on the home next door was in an odd location, and the window in the stairway had a wonderful view.
- The house to the north is not directly behind the subject property.
- The proposed balcony is very narrow and would not be used for sitting. Due to the view angle from someone sitting inside the French doors vs. standing at a window would have less view toward the neighbor's yard.
- She prefers the revised design including the French doors and balcony.

Chair Stahl provided the following comments:

- He agreed with Commissioner Heitkamp's assessment and the comments made by the other Commissioners.
- The revised design with the second floor pushed back from the street works better. It integrates the new mass with the existing mass in a more pleasing fashion.
- The balcony/deck is not large enough to be used as a sitting area.
- There is a significant amount of screening between the subject property and Dr. Lazor's house.
- He preferred the revised design.

Dr. Lazor stated that the compromise was all from him and not his neighbors.

M/s, Heitkamp/Young motioned and the Commission voted 5-0 to approve DR/FAR 06-10, 337 Bretano Way, the second application design, based on the findings and conditions set forth in the staff report. This would include the retention of the balcony and French doors due to the sight line to the rear having less impact than a regular window.

Chair Stahl stated there was a 10-day appeal period.

- 3. Revised DR/FAR/VAR 05-63; 260 Piedmont Avenue (APN 21-039-09) Stephen Grossberg, Architect, applicant; Jack Mahoney, property owner. Request for the following permits to amend the front entry design previously approved under FAR/VAR/DR 05-63: (1) Design Review; (2) Variance from the front yard setback to reduce the previously approved 7'9" setback to 2'7" from the front lot line where a 20' front yard setback is required by code; and (3) Floor Area Ratio Exception to permit an additional 33 sq. ft. increase to the proposed floor area, increasing the approved addition from 515 to 548 sq. ft. and increasing the approved FAR from .34 to .35 where**

an 800 sq. ft. residence and 400 sq. ft. garage is the maximum permitted by code due to the slope.

City Planner Teiche presented the staff report. In response to a question from Chair Stahl, she clarified that the previous application was still approved and valid, and that the applicants were requesting a change in their previous Variance request.

Chair Stahl opened the Public Hearing.

Mr. Stephen Grossberg, architect, made the following comments:

- Circumstances have not changed from the previous application.
- He noted that the Commission had expressed a concern about the design at the previous hearing.
- He stated that they had preferred the original scheme they had presented to staff.
- He presented a model of the current scheme. He stated it is more symmetric with the garage and the addition looks like it belongs there; it is not proposed because they need more storage area.
- They like this look better and believe it is more consistent with the feel of the whole house. They moved it two feet from the original attempt.
- The “look” is important to the community.
- They are asking for something that will look better.

Commissioner McCluney asked Mr. Grossberg to explain the “hardship” aspect of the proposal. Mr. Grossberg stated the findings were made at the last meeting. This is an attempt to make what was approved at the last meeting more aesthetically pleasing. This would not be a hardship for the community. They would like to feel as good about the project as possible.

Mr. Jack Mahoney, property owner, made the following comments:

- This request is about aesthetics and not about gaining square footage.
- They should have taken care of this in the last proposal.
- This is not a haphazard decision and they have been working with the architect for quite some time.
- The revised design makes the most sense with the least impact to the land.

Chair Stahl closed the Public Hearing.

Commissioner Heitkamp provided the following comments:

- This is a challenge because the necessary findings are quite rigid- it has to be a special and unusual circumstance, with no other options for solving problems, it can not set a precedent, and there has to be a hardship.
- Aesthetics are not mentioned in any of the Variance Findings.
- She could not make the findings.

Commissioner McCluney provided the following comments:

- The addition is very minor and trivial.
- He wished the applicant had made an attempt to make the “hardship” finding.

Mr. Grossberg stated the findings were made during the previous hearing and this is simply an amendment to the prior application.

Commissioner Young provided the following comments:

- He thanked the applicant for the model.
- There are other options that could be taken to achieve their aesthetic and functional goals.
- He agreed with the comments made by Commission Heitkamp.
- He could not make the findings.

Commissioner Deignan provided the following comments:

- He was opposed to the original application.
- The revised design improves the look of the entrance, but there was no attempt to make the findings.
- The Commission needs to pay attention to the precedence this may set.
- He could not support the application.

Chair Stahl provided the following comments:

- There was no compelling argument in favor of the application.
- He was not concerned about setting a precedent due to the site conditions. The site is outside of the norm.
- There is uncertainty about the future of the road and whether it might need shoring up at some point.
- He was not sure why they would want to create an obstruction adjacent to the right-of-way.
- The applicants should accept what was previously approved.

M/s, Deignan/Heitkamp motioned and the Commission voted 5-0 to deny (with prejudice) the amendment to approved application DR/VAR/FAR 05-63, 260 Piedmont Avenue, based on the staff report and the inability to make the findings.

Chair Stahl stated there was a 10-day appeal period.

- 4. DR/SUP/HTR 06-14: 31 Paseo Way (APN 070-261-12). Richard Perlstein, Polsky Architects, Architect; John & Janet Polachek, property owners. Request for the following permits to allow for the construction of a new single-story detached pool house: (1) Design Review; (2) Slope Use Permit to allow excavation of approximately 190 cubic yards of earth; and (3) Heritage Tree Removal Permit to allow the removal of one 18” diameter heritage Pine**

Commissioner Young recused himself since he lives within 300 feet of the subject property.

Assistant Planner Licko presented the staff report.

Commissioner Heitkamp had questions about the soils report. Assistant Planner Licko stated the consultant extrapolated from a previous report and has done preliminary investigation in the area where the pool house is proposed. Commissioner Heitkamp was concerned that the soils report appeared to assess only the soils near the base of the hill and not further up.

Commissioner McCluney asked if the Homeowner's Association had any power to enforce their CC&R's. Planning Director Kaufman stated it would depend on how the CC&R's were written but litigation would likely be necessary to enforce the regulations.

Chair Stahl opened the Public Hearing.

Mr. Richard Perlstein, architect, made the following comments:

- He distributed a copy of the arborist report to the Commission.
- The soils engineer is of the opinion that the exposed rock up above is strong. He is confident about the stability of the area.
- The slide of 1995 was repaired and the hillside has not moved since.
- The hillside above the area of proposed construction has no evidence of slides.
- This is a large lot and they want to maintain their yard and landscaping.
- There is language in the CC&R's that prohibits "multiple residences or duplexes". They would remove the cooking appliance from the plans for the proposed kitchen. If the CC&R's should change, they would like to convert it to a second unit and the City of Larkspur could get credit for a second unit. For now, the pool house would not be a second unit.
- The main issue is the interpretation of the Hillside Ordinance and the trade-off between the excavation and off-haul process compared to the larger public good.
- He discussed the purposes of the ordinance and stated their interpretation of the intent was to preserve the natural beauty of the hillsides and limit the extent of excavation only in places that can be readily seen.
- The larger public good would be best served with the project as proposed.
- The existing house is quite bulky in appearance.
- There are no variances required for the project.
- The landscape features and pool placement are constraints.
- He described the type of construction proposed for the retaining wall.
- There are no visual impacts to the neighbors.

Ms. Janet Polachek, property owner, made the following comments:

- The property was in disrepair when it was purchased. They have spent a lot of money to restore the property.

- The project is respectful of the neighbors.
- The proposed location is ideal for a pool house. It is close to the pool and in an un-useable portion of the yard.
- The trees would have to be removed anyway.
- The slope of the hill is very low and terraced.

Commissioner Heitkamp asked if the pool equipment could be relocated since it was a poor location should they decided to use the pool house as a second unit. In addition, this would mitigate the degree of excavation that would be necessary. Mr. Perlstein stated that was possible but the equipment would be fully enclosed by a concrete block wall. Commissioner Heitkamp discussed the access around the back and the amount of excavation required.

Chair Stahl asked Mr. Perlstein what he meant when he said the project had a public benefit in this location. Mr. Perlstein stated they would be keeping the yard open and green and the neighbors above would have a view of landscaping instead of a lot of hardscape.

Chair Stahl asked if he considered a higher floor elevation for the pool house to reduce the amount of excavation. Mr. Perlstein described the siting and stated it would be architecturally “strange” to place it higher. They feel they have the best solution.

Chair Stahl closed the Public Hearing.

Commissioner Heitkamp provided the following comments:

- This is a big lot.
- The design is attractive.
- She has no problem with a second unit and it is logical on this big lot.
- These are “junk” trees and she had no problem with the request to remove it.
- The neighbors’ views would not be impacted.
- She is concerned about the excavation and stated it could jeopardize the upper part of the slope. Surface soils in that area have a tendency to slide and gradual slopes can also slide.
- The stone outcropping is at the base of the slope.
- She would like more information about the condition of the hillside.
- She would like them to explore options to minimize the amount of excavation.
- She had no problem with making the Design Review findings.

Commissioner Deignan provided the following comments:

- He could understand the rationale for the placement of the pool house. This location makes sense.
- The slide area was repaired and there have been no further problems.
- He would like to see them go that extra distance and perform more testing (subsurface investigations, etc.). The retaining walls would provide stability for the hillside.

- There are no variances required and thus the application requires lower thresholds for approval.
- The staff recommended location (closer to the house) is directly below a large expanse of hillside and a riskier location.
- The amount of excavation is a conservative figure.
- He could support the application.

Commissioner McCluney provided the following comments:

- He stated that he had visited the site but did not see the backyard area. He asked Commissioner Deignan if this was the preferred location. Commissioner Deignan stated “yes”. He noted that he was reasonably comfortable with the location and the site was preferable to relocating where there would be less excavation.
- The design is nice and the height is fine.
- The applicant has not explored other ways to orient the building and minimize the amount of excavation.
- He had no problem with the removal of the tree.
- He stated that he was “wavering” on the Slope Use Permit application.
- He had no problem with making the Design Review findings.

Chair Stahl provided the following comments:

- The Slope and Hillside Ordinance is intended to protect ridgelines and also to prevent applying flat land development practices to hillsides. He stated that is what is being sought in this application.
- This is an enormous, flat, back yard and yet they have “backed themselves” into the hillside.
- He is concerned about the tall retaining walls and the possibility of them failing.
- He could not justify the amount of proposed excavation until all possibilities were explored.
- He stated the Commission’s concerns are usually about larger amounts of excavation, larger walls, and the numbers of dump trucks and heavy equipment along narrow streets.
- He would like them to consider raising the floor level and perhaps making the proposal “skinnier” by pulling it out of the hillside a bit.
- He could approve the tree removal request.
- This is an attractive proposal.

Commissioner Heitkamp asked about the height of the retaining walls. Mr. Perlstein stated they would be between nine to twelve feet tall. Commissioner Heitkamp stated twelve feet was quite high. She stated they should consider moving the pool equipment and making the basic footprint smaller.

Mr. Perlstein discussed moving the back wall away from the hillside. The site would be graded and the back of the building and the walkway would be higher. He may be able to reduce the height by one foot.

Commissioner McCluney provided the following comments:

- He cited Finding #2 of the Slope Use Permit and stated they have not “limited grading to only what is necessary to allow reasonable development of the site”.
- He is struggling to make this finding and was not convinced that it had been met.

Chair Stahl provided the following comments:

- He could accept that this is a reasonable location for the proposal but he would like them to reduce the amount of excavation.
- They could reduce the amount of excavation by making the building skinnier.
- They could pull the retaining wall out of the hill and raise the proposal six inches off the ground.

Commissioner McCluney stated he did not want them to change the design so it looked worse and did not fit their needs.

Commissioner Heitkamp provided the following comments:

- Hillside construction should be different from the flatlands.
- They should consider stepping the building and making it two levels.

Planning Director Kaufman asked the Commission to keep in mind that the Slope Hillside Ordinance was designed to protect hillsides. The findings were not written in anticipation of a relatively flat site that wants to dig further into the hill. This is a lot with a relatively large flat area that is being made flatter by cutting into the hillside.

Commissioner Deignan provided the following comments:

- Many applications entail the removal of hundreds of yards of soil- 190 cubic yards is not a huge amount.
- The geotechnical work would improve the hillside and make it safer.
- This seems like a reasonable fit.
- The location of the pool limits the options.

Chair Stahl stated the pool was not a natural, but rather a man-made feature, and a self-imposed hardship.

Mr. Perlstein stated there were ways to play with the grade to reduce the wall height by one foot. He stated that they could do additional subsurface investigation, narrow the building and pull the pool equipment out. Ms. Polachek stated that she thought the additional subsurface work had been done already.

Chair Stahl reiterated there was a flat portion of the site that could be reasonably developed. He was having trouble with Slope Use Permit Finding #2.

Commissioner Heitkamp stated that if they could show they were improving the overall stability of the slope, she could possibly support the application.

M/s, Deignan/Heitkamp motioned and the Commission voted 4-0 (Young recused) to continue DR/SUP/HTR 06-14, 31 Paseo Way, to June 13th.

Commissioner Young returned to the dais.

BUSINESS ITEMS

1. Commissioner's Reports

Commissioner McCluney stated they need to e-mail their vacation schedules to the Planning Director. He asked if she could send this information to the Commission.

2. Planning Commission Minutes of April 18, 2006 and April 25, 2006

M/s, McCluney/Heitkamp motioned and the Commission voted 5-0 to approve the minutes of April 18, 2006 as corrected.

M/s, McCluney/Heitkamp motioned and the Commission voted 4-0 (Chair Stahl abstained) to approve the minutes of April 25, 2006 as submitted.

The meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Toni DeFrancis
Recording Secretary